

REMARKS

In response to the final office Action dated May 25, 2010, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited documents.

Claims 48-53, 58-63, and 68-73 are pending in this application. Claims 54-57, 64-67, and 74-77 were previously canceled without prejudice or disclaimer. Claims 1-47 were also previously canceled without prejudice or disclaimer.

Rejection of Claim 72 under § 112, first paragraph

The Office rejected claim 72 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Claim 72, however, has been amended to delete a mistake in the claimed features. The Office is thus respectfully requested to re-examine these claims in their current presentation.

Rejection of Claims under § 102 (e)

The Office rejects claims 48, 52-53, 58, 61-63, and 68 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Application Publication 2002/0194586 to Gutta, *et al.*

These claims, though, are not anticipated. These claims already recite, or incorporate, many features that are not disclosed or suggested by *Anderson*. Independent claim 48, for example, recites “*determining, by the computer, that two or more conflicting actions are to be taken based on the presence indicator signal and a source of the presence indicator signal*” and “*retrieving a conflict resolution rule to determine which of the two or more conflicting actions predominates.*” Support for these features may be found at least in the as-filed application at paragraph [0041]. Independent claims 58 and 68 recite similar features.

Gutta '586 does not anticipate these features. *Gutta '586* discloses an entertainment system that detects users. See U.S. Patent Application Publication 2002/0194586 to Gutta, *et al.* at paragraph [0018]. Examiner Van Handel is correct — *Gutta '586* detects which users, of a plurality of users, are within a viewing area. See *id.* at paragraph [0020].

Importantly, though, *Gutta '586* will NOT encounter “*two or more conflicting actions*,” as the independent claims recite. **When *Gutta '586* detects multiple users, *Gutta '586* creates a “composite user profile based on the profiles” of each of the users.** See *id.* at paragraph [0020] (emphasis added). “**Combinational preferences**” are defined that “**handle preferences of a user in light of other users who may be present.**” See *id.* at paragraph [0021] (emphasis added). Each user’s individual profile is combined into the “composite user profile” and entertainment options are recommended. See *id.* at paragraph [0026]. The user profiles may be equally weighted. See *id.* at paragraph [0027]. Alternatively, an entertainment option may be recommended that satisfies a threshold for all the users. See *id.* at paragraph [0028]. Some users may have greater weightings, or a “majority rule” may be implemented. See *id.* at paragraph [0029]. **Regardless, because *Gutta '586* creates a “composite user profile,” *Gutta '586* would NOT encounter “*two or more conflicting actions*,” as the independent claims recite.** *Gutta '586*, then, cannot anticipate all the features of the independent claims.

Independent claim 68 recites additional, distinguishing features. Independent claim 68 recites “*determining which of the two or more conflicting actions was first triggered*” and “*selecting a first triggered action as a predominate action to resolve the two or more conflicting actions.*” Support for these features may be found at least in the as-filed application at paragraph [0041]. Again, because *Gutta '586* creates a “composite user profile,” *Gutta '586* has no need to determine “*which of the two or more conflicting actions was first triggered*” and to select “*a first triggered action as a predominate action to resolve the two or more conflicting actions.*” Independent claim 68, then, cannot be anticipated.

Claims 48, 52-53, 58, 61-63, and 68, then, cannot be anticipated by *Gutta* '586. The independent claims recite many features that are not disclosed or suggested by *Gutta* '586. Their respective dependent claims incorporate these same features and recite additional features. These claims, then, cannot be anticipated, so the Office is respectfully requested to remove the § 102 (b) rejection of these claims.

Rejection of Claims 49-51, 59-60, 69 & 70-72 under § 103 (a)

Claims 49-51, 59-60, 69, and 70-72 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta* '586 in view of U.S. Patent Application Publication 2002/0144259 to *Gutta, et al.* These claims, though, depend from either independent claim 48, 58, or 68. These claims, then, incorporate the same distinguishing features discussed above. As the above paragraphs explained, *Gutta* '586 fails to teach or suggest all the features of the independent claims, and *Gutta* '259 does not cure the deficiencies. The proposed combination of *Gutta* '586 with *Gutta* '259 still creates a "composite user profile," which would NOT encounter "*two or more conflicting actions*," as the independent claims recite. One of ordinary skill in the art, then, would not think that claims 49-51, 59-60, 69, and 70-72 are obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

Rejection of Claim 51 under § 103 (a)

Claim 51 was rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta* '586 with *Gutta* '259 and further in view of U.S. Patent 6,317,882 to Robbins. Claim 51, though, depends from independent claim 48. Claim 51, then incorporates the same distinguishing features. As the above paragraphs explained, *Gutta* '586 with *Gutta* '259 fails to teach or suggest all the features of the independent claims, and *Robbins* does not cure the deficiencies. The proposed combination of *Gutta* '586 with *Gutta* '259 and *Robbins* still creates a "composite user profile," which would NOT encounter "*two or more conflicting actions*," as independent claim 48 recites. One of ordinary skill in the art, then, would not think that claim 51 is obvious. The Office is respectfully requested to remove the § 103 (a) rejection of this claim.

Rejection of Claim 72 under § 103 (a)

Claim 72 was rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta* '586 with *Gutta* '259 and further in view of U.S. Patent 6,025,869 to Stas, *et al.* Claim 72, though, depends from independent claim 68. Claim 72, then incorporates the same distinguishing features. As the above paragraphs explained, *Gutta* '586 with *Gutta* '259 fails to teach or suggest all the features of the independent claims, and *Stas* does not cure the deficiencies. The proposed combination of *Gutta* '586 with *Gutta* '259 and *Stas* still creates a "composite user profile," which would NOT encounter "*two or more conflicting actions*," as independent claim 68 recites. One of ordinary skill in the art, then, would not think that claim 72 is obvious. The Office is respectfully requested to remove the § 103 (a) rejection of this claim.

Rejection of Claim 73 under § 103 (a)

Claim 73 was rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta* '586. Claim 73, though, also depends from independent claim 68. Claim 73, then incorporates the same distinguishing features. As the above paragraphs explained, *Gutta* '586 creates a "composite user profile," which would NOT encounter "*two or more conflicting actions*," as independent claim 68 recites. One of ordinary skill in the art, then, would not think that claim 73 is obvious. The Office is respectfully requested to remove the § 103 (a) rejection of this claim.

If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

37 C.F.R. § 1.8 CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being electronically transmitted via the USPTO EFS web interface on August 20, 2010.

A handwritten signature in black ink, appearing to read "Scott P. Zimmerman", with a stylized, overlapping loop structure.

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